

REMARKS

On August 19, 2004 the undersigned received a facsimile transmission from examiner, Patricia Nordmeyer, transmitting a copy of an Office Action dated February 26, 2004 addressed to the undersigned at his previous firm of Jones, Tullar & Cooper. A copy of this Office Action was not received by the undersigned at his present firm of Bacon & Thomas from Jones, Tullar & Cooper, although all communications from Jones, Tullar & Cooper for the undersigned are being forwarded to the undersigned at his present firm, and this procedure has been in place since January 1, 2004. Jones, Tullar & Cooper has indicated to the undersigned that they have not retain any mail from the PTO addressed to the undersigned, and concluded that they never received the noted Office Action.

The Office Action is noted to be a Notice of Non-Compliance Amendment with respect to the Amendment filed February 17, 2004. This Amendment was filed from Bacon & Thomas and was a Response filed with an RCE filed by the undersigned. The RCE contained the Customer Number of Bacon & Thomas so that any reply (the Office Action of February 26, 2004) should have been addressed to the undersigned at Bacon & Thomas and not Jones, Tullar & Cooper.

As a result of the confusion created by the misdirection of the Office Action of February 26, 2004, the Response to the Non-Compliant Notice could not be filed by the one month due date of March 26, 2004.

The examiner was advised of the above and is in the process of obtaining permission to re-set the due date for the Response to the Non-Compliant Notice, but has not been able to do so as yet. Since today is the six-month period since the issuance of the Non-Compliant Notice, a Response is being filed to address the non-compliant issue but without an extension fee as it is expected under the circumstances that the due date will be reset to at least today.


U.S. Pat. Appl. 09/509,535

It is respectfully requested that the present Response be accepted as timely and entered.

If an extension fee is to be charged, it is respectfully requested that the undersigned be contacted first before the fee is charged to the Dep. Acc/ of Bacon & Thomas.

Respectfully submitted,

BACON & THOMAS, PLLC



Felix J. D'Ambrosio
Registration No: 25,721

August 26, 2004

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